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IN THE COURT OF APPEALS OF INDIANA

DIANE HARMON,	)	
	)	
Appellant-Plaintiff,	)	
	)	
vs.	)	No. 43A05-0706-CV-339
	)	
GEORGE JACKSON,	)	
	)	
Appellee-Defendant.	)	

APPEAL FROM THE KOSCIUSKO CIRCUIT COURT
The Honorable Rex L. Reed, Judge
Cause No. 43C01-9712-DR-875

October 22, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Diane Harmon ("Mother") appeals from the trial court's order on her petition to modify child support. She presents a single issue for our review, namely, whether the trial court erred when it concluded that she owed $19,088 in child support arrearage.

We affirm.

FACTS AND PROCEDURAL HISTORY

Mother and George Jackson ("Father") were married and have two minor children. Mother and Father divorced in 1999. The trial court awarded custody of the children to Father, and Mother exercised parenting time with the children. The court ordered Mother to pay Father $130 per week in child support.

Mother was diagnosed with Crohn's disease when she was approximately eighteen years old. Crohn's is a chronic condition and when Mother's symptoms flare up, she is unable to work. In 2003, when Mother suffered an especially bad bout of the disease, Mother and Father entered into a joint stipulation to abate child support, whereby Mother's support obligation was abated "until such time as [Mother] is able to obtain employment, at which time, child support shall resume." Transcript at 1.

On March 5, 2004, Mother returned to work for six weeks before she experienced another bout of symptoms related to Crohn's and had to stop working. Mother subsequently underwent three surgeries in 2004. She went back to work in February 2005, but she had to stop working in June 2005 when she became ill again. In May 2006, Mother resumed work and has been employed since that time.

On April 2, 2004, Father filed an "Information in Contempt/Motion to Modify" alleging that Mother was not fulfilling her support obligation. But Mother was unable to attend the hearing due to a hospitalization. Proceedings were continued several times, but Father did not seek a final resolution of the matter. On October 31, 2006, Father filed a Motion for Resumption of Child Support, and on December 21, Mother filed a Petition to Modify Support. During a hearing on March 1, 2007, the trial court heard evidence on Mother's petition. The trial court took the matter under advisement. On March 19, the trial court issued an order modifying Mother's child support obligation and concluding that she is $19,088 in arrears. This appeal ensued.

DISCUSSION AND DECISION

Mother contends that the trial court erred when it found that she was in arrears. In particular, Mother maintains that the trial court should have interpreted the parties' joint stipulation to abate support to mean that Mother would resume paying only after she obtained work "for a sustainable period of time." Brief of Appellant at 5. We cannot agree.

The parties' joint stipulation to abate support, which the trial court approved on April 21, 2003, stated that Mother's support obligation was abated "until such time as [Mother] is able to obtain employment, at which time child support shall resume." Appellant's App. at 15. Thereafter, Mother obtained employment on March 5, 2004. Under the terms of the abatement order, Mother's support obligation resumed on that date. Nothing in the parties' agreement or the trial court's order can be interpreted to

support Mother's contention that the abatement should have continued until she found "sustainable" work.

It is well settled that after support obligations have accrued, a court may not retroactively reduce or eliminate such obligations.[1] Whited v. Whited, 859 N.E.2d 657, 661 (Ind. 2007). This rule requires judicial action to reduce a support order. Id. Our courts have prohibited retroactive modification without a court order even where a child subject to a support order has died. See id.

Here, Mother began working on March 5, 2004, but she became ill and had to stop working six weeks later. And she was unable to find work again until 2005. But Mother did not seek another abatement order from the trial court during those periods of unemployment.[2] Without such an order, Mother's support obligation was in effect. The trial court did not err when it found Mother in arrears in the amount of $19,088.[3]

Affirmed.

MATHIAS, J., and BRADFORD, J., concur.

[1] There are exceptions to this rule, but none apply here.

[2] Neither party directs us to any part of the record on appeal indicating when Mother stopped paying child support. But neither party disputes the amount of arrearage.

[3] Mother argues that the trial court failed to consider the standard of living the children would have enjoyed had the marriage not been dissolved, citing Indiana Code Section 31-16-6-1(a). But that question goes to the initial determination of a child support award and is not relevant here.